

SUMMARY STATEMENT

Garza v. State, Docket No. 44991

In an appeal from Ada County, the Idaho Supreme Court affirmed the district court's dismissal of Gilberto Garza Jr.'s petitions for post-conviction relief. Garza signed two plea agreements relating to charges of aggravated assault and possession of a controlled substance with intent to distribute. As part of his plea agreements, Garza waived his right to appeal. Despite the waivers, Garza instructed his attorney to appeal. Garza's attorney declined to file the appeals, citing the waivers of appeal in the plea agreements. Garza then filed petitions for post-conviction relief in each case, alleging his counsel was ineffective for failing to appeal.

The district court dismissed Garza's petitions concluding Garza's counsel was not ineffective for failing to appeal. The Court of Appeals agreed and affirmed. On appeal, Garza argued that his Sixth Amendment Constitutional right to reasonably effective legal counsel was violated. In so asserting, Garza relied on the United States Supreme Court's decision in *Roe v. Flores-Ortega*, 528 U.S. 470, 484 (2000), which held that counsel is ineffective when they fail to appeal at their client's request. Garza argued this presumption of ineffectiveness should apply even when a defendant has waived his right to appeal in a binding plea agreement.

The Supreme Court affirmed the decision of the district court, and declined to presume Garza's counsel was ineffective for failing to appeal after Garza waived his right to appeal. The Supreme Court held that Garza must satisfy the test for ineffective assistance of counsel as articulated in *Strickland v. Washington*, 466 U.S. 668, 688–92 (1984), which requires showing an attorney's conduct was deficient and that the defendant was prejudiced. Garza was unable to show deficient conduct or that he was prejudiced by his attorney's failure to appeal. Therefore, the Supreme Court held that Garza's petitions for post-conviction relief were properly dismissed by the district court.